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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,231

01/19/2006

Christian Dongar

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3836

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

EXAMINER:

WOODALL, NICHOLAS W

ART UNIT

PAPER NUMBER

3733

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/541,231

Applicant(s)

DONGAR ET AL.

Examiner

Nicholas Woodall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/01/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. The restriction requirement described in the previous office action is withdrawn by the examiner. The restriction requirement was improper because the application is a 371 national stage application of a PCT application.

Information Disclosure Statement

2. The information disclosure statement filed July 1st, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "yy" has been used to designate both the axis of rotation of the intermediate sleeve and the axis of a drill guide.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1a" has been used to designate both a rigid support element and a rail.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference character "C" is not shown in the figures.

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6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference numbers "8a", "21a", and "21b" are not listed in the specification.

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The applicant uses multiple and/or statements within claim 1 to describe multiple variations in the device. However, all the possible variations for the device have not been shown in the drawings. Therefore, all the embodiments stated in claim 1 in with respect to the and/or statements must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

8. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

9. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

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disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

10. The abstract of the disclosure is objected to because the abstract uses a phrase that implies, i.e. "The invention relates...". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

14. Claim 1 recites the limitation "the latter" in line 8. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 1 recites the limitation "the axis of the threading" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 2 recites the limitation "the latter" in line 3. There is insufficient antecedent basis for this limitation in the claim. The examiner is unclear if "the latter" refers to "the latter" in claim 1 or a different element.

17. There exists an inconsistency between the language of claim 1 and that of the claim 2 dependent thereon, thus making the scope of the claim unclear. In the preamble

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of claim 1, line 1, applicant recites "A device" with the fixed element being only functionally recited, i.e. "for immobilizing with respect to a fixed element...", thus indicating that the claim is directed to the subcombination, "A device". However, in claim 2, lines 2-4, applicant positively recites the fixed element as part of the invention, i.e. "adapted to be fixed on the fixed element...", thus indicating that the combination, a device and a fixed element, is being claimed. As such, it is unclear whether applicant intends to claim the subcombination or combination. Applicant is hereby required to indicate to which, combination or subcombination, the claims are intended to be directed, and amend the claim such that the language thereof is consistent with this intent. For examination purposes claims 2-9 will be considered as being drawn to the combination, a device and a fixed element

18. Claim 3 recites the limitation "the intermediate piece" in line 2. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 8 recites the limitation "intermediate pieces" in line 3. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 8 recites the limitation "the profile of the support" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kretschmer (European Patent 0,517,939 A1) in view of Young (U.S. Publication 2005/0038433).

Regarding claim 1, Kretschmer discloses a device comprising a locking sleeve. The locking sleeve includes an axial bore. Kretschmer fails to disclose the locking sleeve to include external threads. Young discloses a device comprising a locking sleeve that includes external threads in order to tighten the assembled device (page 1 paragraph 05). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Kretschmer with a locking sleeve including an external thread in view of Young in order to tighten the assembled device.

23. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kretschmer (European Patent 0,517,939 A1) in view of Young (U.S. Publication 2005/0038433) further in view of Sherman (U.S. Patent 5,141,357).

Regarding claim 1, the combination of Kretschmer and Young disclose the device as claimed except for the axis of the bore of the locking sleeve being angularly and/or laterally offset in relation to the axis of the external threads. Sherman discloses a device comprising a locking sleeve wherein the bore of the locking sleeve is laterally offset from the axis of the locking sleeve in order to compensate for misalignment (column 6 lines 1-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Kretschmer modified by

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Young with a locking sleeve wherein the axis of the bore is laterally offset from the axis of the locking sleeve in view of Sherman in order to compensate for misalignment.

24. Claims 2-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kretschmer (European Patent 0,517,939 A1) in view of Young (U.S. Publication 2005/0038433) further in view of Sherman (U.S. Patent 5,141,357) further in view of Haag (U.S. Patent 5,976,141).

Regarding claims 1-4 and 6-8, the combination of Kretschmer, Young, and Sherman disclose the invention as claimed except for the intermediate piece having an upper part comprising a circular boss (claim 6). Haag discloses a device with a sleeve wherein the sleeve comprises an upper part having a circular boss in order to allow the sleeve to lock into a hole (column 2 lines 26-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Kretschmer modified by Young and further modified by Sherman with an intermediate piece having an upper part comprising a circular boss in view of Haag in order to allow the sleeve to lock into a hole.

Allowable Subject Matter

25. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for cited references the examiner felt were relevant to the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Woodall whose telephone number is 571-272-5204. The examiner can normally be reached on Monday to Friday 8:00 to 5:30 EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NWW


EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER